

**Please note that State Law prohibits the applicant from discussing any application with a member of the Board of Zoning Appeals prior to the Public Hearing on the request.**

## **SPECIAL EXCEPTION USES AND PROCEDURE AND REQUIREMENTS**

Uses Permitted - Certain land uses, construction and operations are specified as Special Exceptions (on appeals only) in Table 1a. The Special Exceptions listed in Table 1a and their accessory buildings and uses, may be allowed or prohibited by the Board of Zoning Appeals in the districts indicated in accordance with the procedure set forth in Section 501.0.

**Procedure-**Upon receipt of an application for a Special Exception by the property owner, the Administrator shall refer such application to the Planning Commission for review, and comment. The Plan Commission may forward a recommendation regarding approval or denial of the request and/or recommend conditions that are deemed appropriate to insure the use will be consistent with the Comprehensive Plan. The Commission shall report its recommendations on the proposal to the Board and, the Board may, after public notice and hearing according to the law, grant or deny the permit, including the imposition of conditions, restrictions and requirements on the use, which the Board deems essential to insure that the Special Exception is consistent with the spirit, purpose and intent of this ordinance, will not substantially and permanently injure the appropriate use of the neighboring property, and will not adversely affect the public, health, safety, morals and welfare.

**In considering a request for a Special Exception, imposing conditions, restrictions and requirements, and approval/denial, the Board shall consider in addition to any other pertinent factors:**

- The recommendations of the Plan Commission.
- The avoidance of congestion and provision for traffic and other transportation.
- The insurance from and provision for safety from any hazards associated with the proposal.
- The avoidance of adverse effects to neighboring property greater than that which may be associated with uses that are permitted by right in the district in which the property is located.
- The compatibility of the use with the existing uses in the vicinity.
- The availability and coordination of water, sanitary sewers, storm drainage, and other utilities.
- Evidence that the proposed use will create conditions favorable to health, safety, convenience and the harmonious development of the community, without any adverse effects to adjoining property or public facilities that are possible in the area.
- The impact of proposed signage and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with properties in the area.

A site plan shall be included in the application for the special exception containing the information outlined in section 801.1b of this ordinance. Approval of all special exceptions shall be valid for one year unless specified otherwise by the Board. In the event the approved use of the property is not established within this period, the board's approval shall be null and void. Once an approved use has been established, it may continue indefinitely, provided all activities are conducted in compliance with the approval by the board. In the event an approved use is conducted in such a manner that is not consistent with the Boards approval such violations shall subject the owner of the site to the same penalties and/or enforcement actions, which, are applicable to any violation of this Zoning Ordinance. Also should non-compliance continue for 365 days the special exception shall become null and void. For the purposes of this section the 365 days shall begin on the first day the Administrator posts notice of the violation on the property and one day shall be subtracted from the total for each day the violation exists until the Administrator determines the site has been brought into compliance or the special exception becomes void. It shall be the proprietor's responsibility to request re-inspection of the site once compliance is achieved. Also in the event non-compliance reoccurs in the future, subtraction of days from the balance shall resume until the special exception shall become void or compliance achieved which ever comes first. Special exceptions that become void due to noncompliance shall immediately cease operation.

Approval of a Special exception shall become null and void in the event an approved use is discontinued for a period, which exceeds 365 consecutive days.

Within thirty (30) days after approval of a special exception the Administrator shall prepare a "Notice of Conditional use" which shall be filed with the Harrison County Recorder as a supplement to the deed for the property. Said notice shall specify the type of use approved for the subject property and any conditions/restrictions applicable thereto.

In the event a special exception is denied, the Board of Zoning Appeals may consider no application for a special exception for the same or similar use until 365 days have lapsed from the date the denial occurs.

### **Information required as part of all special exception applications**

- Copy of Deed for the property.
- A Site plan as described above which shows:
- Existing buildings, septic lines, fences, and walls, including distances to property lines
- Proposed buildings, septic lines, fences and walls,
- Parking and driveway including dimensions and pavement type,
- Landscaping proposed, especially when the use is adjacent to residential property,
- Existing trees and shrubs which are greater than 12 inches in diameter,
- A detailed written description of the type of activity that will take place, hours of operation, and type of construction of existing and proposed buildings.

### **Additional information that may help support your request**

- Traffic counts (if available)- the County Engineer (738-4600, county roads) or State Department of Transportation (812-282-7495, state roads) have counts on most roads.

- Location and types of similar uses in the area.
- Letters of support for the proposed use.
- Evidence that a driveway permit has been or will be approved for the site.
- Size and location of water and sewer lines, if any.